IN THE COUNTY COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION

Revised
Not Restricted
Suitable for Publication

Case No. CR-17-01070

DIRECTOR OF PUBLIC PROSECUTIONS

v

PETER STOICOS

JUDGE:	HER HONOUR JUDGE LAWSON
WHERE HELD:	Melbourne
DATE OF HEARING:	29 August & 21 November 2018
DATE OF SENTENCE:	22 January 2019
CASE MAY BE CITED AS:	DPP v Stoicos
MEDIUM NEUTRAL CITATION:	[2019] VCC 53

REASONS FOR SENTENCE

Subject: CRIMINAL LAW
Catchwords: Sentencing – obtain financial advantage by deception (rolled-up charge) – no prior criminal history – gross breach of trust – significant delay - *Verdin's principles 5 & 6* enlivened - Community Correction Order imposed

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APPEARANCES:	Counsel	Solicitors
For the DPP	Mr Hardjadibrata (Plea) Ms L. Gurry (Sentence)	John Cain, Solicitor for Public Prosecutions
For the Accused	Ms Seoud	Victoria Legal Aid

HER HONOUR:

1 Peter Stoicos, you have pleaded guilty before me to one charge of obtain financial advantage by deception, contrary to s82(1) of the *Crimes Act* 1958.

2 This is a rolled-up charge representing 13 transactions between 1 November 2013 and 6 June 2014 in total and involves the sum of $195,500.

3 The fact that this is a rolled-up charge means that this was not isolated offending, and I have taken that into account.

4 The charge is serious and that is reflected in the maximum penalty that is prescribed by Parliament for the charge, and that is 10 years' imprisonment.

5 You are a person who comes before the Court with no prior convictions. You are now aged 50, and the offending subject to the charge occurred whilst you were aged between 44 to 45 years of age.

6 The background to the matter is that you, by deception, obtained money - that is, $195,500 - from the Family Trust of Aspasia and Paul Laouris, as a consequence of representing to them falsely that you would forward the moneys to the Australian Taxation Office ("the ATO") as payment for a tax debt that they owed.

7 None of the money that was deposited into your account was ever paid to the ATO.

8 At the time of the offending, you operated a business and finance consultancy under the name of Stoia Corporation Pty Ltd, and you had been engaged by the Laourises to assist them in relation to providing them with assistance finding suitable finance to repay a debt to ATO.

9 Paul Laouris operated a plumbing business in the Northern Territory known as "Leanyer Plumbing Pty Ltd". His wife, Aspasia, worked as an administrator for the business. The Polydoros Family Trust, of which both Paul and Aspasia

Laouris and their children were beneficiaries, owned the business and traded under the name of “Leanyer Plumbing Pty Ltd”. Paul Laouris was the trustee of the trust.

10 Over a period of seven years, between 2006 and 2013, the plumbing business had incurred a large debt to the ATO. Prior to receiving notification of court proceedings in respect to the tax debt, Aspasia and Paul Laouris approached a local Darwin mortgage broker, Rick Jackson, NT Mortgage Brokers, in early 2013, seeking to obtain finance to repay the debt. They met with him in early 2013, and through him, they were introduced to you. You were made aware of the Laourises' situation and offered to assist them in providing them with assistance finding suitable finance to repay the debt.

11 On 28 June 2013, court proceedings were commenced against Paul Laouris as trustee of the Family Trust by the Deputy Commissioner of Taxation in the District Court of South Australia claiming a tax debt in excess of $500,000. Mr Laouris was notified of the court proceedings against him by both letter and court summons.

12 On 29 July 2013, the Laourises entered into a formal agreement with you to enable you to secure finance to pay the tax debt. You also advised them that you could deal with the ATO debt for which you received consultancy fees for your services in dealing with the ATO on their behalf.

13 You told Aspasia Laouris that to assist in dealing with the ATO, it was necessary for them to make payments to the ATO as soon as possible. You provided them with your personal Westpac bank account details, into which moneys totalling $195,500 were paid in 13 separate transactions over the period charged.

14 The monies ultimately were not paid by you to the ATO in reduction of the tax debt, but were used for you for your own purposes.

15 Eventually, your deception was uncovered when the Laourises' usual bookkeeper returned to work in 2014 and the accountants for the business were changed.

16 On 13 June 2014, Aspasia Laouris attended the Northern Territory police and made a complaint about your conduct. The Victorian Police took over the investigation in early 2015, and ultimately, on 15 July 2015, you were arrested and a record of interview was conducted, during which you made some admissions but made no comment in respect to the allegations.

17 In the meantime, the Deputy Commission of Taxation obtained judgment against the Laourises in respect of the debt owed on 15 January 2014. On 4 April 2014, a bankruptcy notice against Paul Laouris, personally, was issued. It is unclear from the material that was provided to the Court whether, in fact, Mr Laouris was made bankrupt.

18 There is no doubt, however, that by your actions and gross breach of trust, you would caused great anxiety to the Laouris family.

19 No victim impact has been filed. However, I have had regard to what was said by Aspasia Laouris in her statement contained within the depositions, that your actions forced her family to face financial adversity.

20 In sentencing you, there is a need for the court to emphasise both general and specific deterrence and for the court to formally denounce your behaviour and to impose just punishment.

21 Ms Seoud, on your behalf, conceded the offending is serious and would ordinarily warrant a term of imprisonment to be imposed. She submitted that the Court ought consider a substantial and lengthy Community Correction Order or, alternatively, if that submission is rejected, a combination sentence of imprisonment to be followed by a Community Correction Order.

22 Mr Hardjadibrata, on behalf of the Crown, emphasised this was serious

offending involving as it does a rolled-up charge that involved offending that was protracted, deliberate, and premeditated, and motivated by greed. Your conduct constituted a gross breach of trust. You exploited vulnerable victims who were relying upon you to assist them with their financial affairs. There has been no restitution. In all the circumstances, he submitted that the only appropriate disposition was an immediate term of imprisonment to be served.

23 Whilst you have no prior criminal history, there has been subsequent offending.

24 On 26 August 2015, you were dealt with in respect to an unrelated matter at the Melbourne Magistrates Court on one an unlawful assault charge relating to a former partner. You were placed on a without conviction adjourned undertaking which I note was successfully completed.

25 On 12 September 2014, at Melbourne Magistrates Court, you were dealt with in respect to a charge of obtaining property by deception for which you were convicted and placed on a Community Correction Order for 18 months with the condition that you perform 200 hours' community work and undergo treatment and rehabilitation, and mental health assessment and treatment. I note that you complied with that order. That charge of obtain property by deception involves similar offending. The victim in that matter was a client whose monies were deposited with you, and you used them for a purpose - namely, your own personal use. The amount involved was $65,000.

26 I have taken into account your personal history and background. You are a person who has Greek heritage. Your parents migrated from Greece in the 1950s. They are elderly and live in the western suburbs of Melbourne. You are their third child of four children. You have an older sister, an older brother and a younger sister. You have a supportive relationship with your youngest sister.

27 Your childhood was unremarkable, and your parents were very supportive and raised you in a very traditional Greek nurturing family.

28 Having completed schooling, you then obtained a Law Degree from the University of Melbourne and a Bachelor of Business, Bachelor of Finance from the Melbourne Business School. You were able to obtain employment as a licensed mortgage broker.

29 You married when you were 21, and that marriage lasted for 20 years. There are two children, both daughters, born of that marriage, who are in their mid to late 20s. Following your divorce from your wife and the revelation of offending, you have become estranged from your daughters and that situation continues.

30 Over the years, you worked successfully to build up your business career. That situation changed dramatically in the period from 2012 to 2014 when your life unravelled attributable to the breakdown of your marriage, the end of a same-sex relationship that you became involved in that was destructive and abusive, and mental health issues. You incurred large debts due to a serious gambling addiction that had become out of control. You started to steal money from your clients that you used for gambling, hoping that you would have a big win so that you could pay back the debts. Eventually, because of your situation, your businesses failed.

31 You have had a number of difficult personal issues in your past, and I have referred to some of them already.

32 From about age 16, you struggled with your sexuality, and it was not until 2012 that you came out and had a same-sex relationship while still married. That partner was abusive, and you suffered sexual assault and rape at that partner's hands.

33 In 2009, you were diagnosed with a heart condition, namely, angina. In 2013, you had a heart attack, following which you had an operation for stents to be

inserted. And following that surgery, you have continued to be reviewed by your Dr Salvatore Rametta who is your cardiac physician. You have ongoing issues with high blood pressure. Recently, there have been further tests and there possibility of further heart surgery remains.

34 You had a "breakdown" in 2014 and you were admitted to the Albert Road Clinic in respect to severe depression. Dr Okedar, psychiatrist, treated you for two years.

35 Dr Okedar described you at review on 20 February 2014 as having "a chronic history of dysphoric mood over many years" with an exacerbation of depressive symptoms over the previous 4 years in the context of "multiple stressors including business related issues and marital issues." He noted that you presented with anxiety and suicidal thinking.

36 Currently, you are still being treated for your depression. You are prescribed Zoloft, an antidepressant, and you regularly see a counsellor, Nina Hancox, under a mental health treatment program for management of your low mood and mental health issues.

37 You are now in a healthy same-sex relationship with your partner, Darren Hogeboom, who has been present supporting you at the plea hearings.

38 You were assessed at the request of the Court by Dr Amanda Nielson, senior forensic psychologist, whose report dated 30 November 2018 states during her assessment you disclosed ongoing suicidal ideation but no intention to act on this, and on self-report, you endorsed high levels of anxiety and depressive symptoms in the extremely severe range.

39 She considered that any term of imprisonment will weigh heavily upon your mental health and that you were at higher risk of self-harm or suicide than the average prisoner. Her expressed opinion reflects that of Dr Okedar's who was the treating psychiatrist who cared for you in the past. She states that you

come across as quite naïve and emotionally labile. You have a history of sexual trauma and are generally pro-social and would be particularly vulnerable in the prison system with the risk that you would be taken advantage of by other prisoners.

40 On your behalf, Ms Seoud submitted that limbs 5 and 6 of the *Verdins principles* were enlivened.

41 At the plea hearing, Mr Hardjadibrata disputed this on the basis that the material relied upon was dated.

42 Having considered both the historic material from Dr Okedar, taken together with the findings of Dr Neilson, I accept the submissions made by Ms Saoud concerning the *Verdins* principles, limbs five and six. That is, I accept that prison would be more onerous because of your health issues as compared to a person of normal health, and also, that imprisonment would have a significant adverse affect on your mental health and would increase your suicidal risk. I have taken that into account and your sentence is moderated accordingly.

43 You ceased working effectively in 2016 and you are currently in receipt of Centrelink benefits. You have applied for a Disability Support Pension for the diagnosis of anxiety and depression.

44 I have had regard to the significant delay in the prosecution of these proceedings.

45 Notwithstanding a statement detailing the nature and extent of your criminality was provided to the Northern Territory police on 9 July 2014, the matter did not come to the attention of the Victorian police until early 2015. It was not until 15 July 2015 that you were interviewed by the informant. Thereafter, further statements were required to be taken from the Laourises bookkeeper, Ms Hay, and the accountant. Those statements were not taken until

September 2015.

46 A search warrant was executed on the relevant bank - that is, the Westpac Bank - on 4 November 2015.

47 A computer was seized from your premises on 15 July 2015 that was copied on 18 January 2016 and later analysed.

48 The ATO material took some time to be released and it was not until June 2016 that the Victorian police were in a position to file charges.

49 The prosecution accept that the delay in these circumstances is a mitigating factor.

50 I have taken into account in your favour the long delay. You have experienced the anxiety of having charges being laid hanging over your head following your arrest on 15 July 2015, and thereafter, the delay in the matter proceeding in court. During the period of time, you have taken positive steps towards your ultimate rehabilitation, undertaking counselling, stopping gambling and importantly, you have not reoffended. The fact of this delay is, I accept, a form of punishment in itself.

51 The pre-sentence report assessment prepared by Jenny Tiv, Court Assessment and Prosecution Officer, Dandenong Community Correction Services, assessed you as being a high risk of reoffending according to the level of service/risk need responsivity tool.

52 In contrast, Dr Nielson assessed you as being a low range risk for general offending according to the same tool. Given the passage of time and the fact you have been compliant with treatment and have not reoffended, I prefer and adopt Dr Nielson's assessment.

53 I am satisfied in all the circumstances that you have very good prospects for rehabilitation.

54 I have taken into account in formulating the appropriate sentence all the mitigating factors that were highlighted on your behalf by Ms Seoud.

55 I accept that you entered a plea of guilty at an early stage, once proper charges were formulated. I note that there was a contested committal and one of the victims was required to give evidence, but once the committal was completed, the formulation of the charges was narrowed and thereafter, parties were able to resolve the matters so that the matter proceeded with a plea without the necessity for a trial. Through your plea, you spared the State the cost and inconvenience of a trial and you have facilitated justice. The sentence will be discounted accordingly. I am satisfied that your plea does also indicate genuine remorse.

56 Notwithstanding the objectively serious criminal conduct involved in your offending, I have come to the conclusion that all the purposes of sentencing can be sufficiently achieved by a Community Correction Order being imposed, and the order will be of three years' duration with conditions tailored to your particular circumstances and directed to your ultimate rehabilitation in a community setting.

57 You have been assessed as being suitable for such an order, and I have adopted the conditions that have been recommended by the assessor. I consider that in all the circumstances, a Community Correction Order, so formulated, is appropriate and just punishment.

58 The Court of Appeal in this State, in the guideline judgement of *Boulton v R*[1], has made it clear in an appropriate case such an order can provide a sentencing option that is flexible, that enables both the punitive and rehabilitative purposes to be served simultaneously, and such an order can be fashioned to address the particular circumstances of the offender and the causes of the offending, aimed at minimising the risk of re-offending by

1 [2014] VSCA 342.

promoting the offender's rehabilitation.[2]

59 In *Boulton*, the Court also acknowledged that such an order may remain open, even in cases of very serious offending[3] where a term of imprisonment is otherwise warranted.

60 You have had explained to you the nature of such an order that is to be imposed, and you have indicated through your counsel that you understand and consent to such an order and understand the consequences of non-compliance.

61 Contravention of any condition attached to such an order is itself an offence punishable by up to three months' imprisonment. Contravention also carries with it the prospect that you will be resentenced on the original offence. Furthermore, if you do commit further offending, such breaching offence will be also dealt with and subject to other penalties itself.

62 I will now announce the formal court orders. Could you please stand, Mr Stoicos?

63 In respect to the one charge of obtain property by deception, you will be convicted, and a Community Correction Order will be imposed for three years' duration with the requirements that you be under supervision, that you undertake 250 hours of community work and have assessment and treatment for mental health issues and offender behaviour programs. All hours of treatment and rehabilitation satisfactorily undertaken are to be counted as hours of unpaid community work for the purpose of the community work condition.

64 I make the Compensation Order sought in the sum of $195,500.

65 I make the order pursuant to s.464ZF for the taking of a forensic sample, having regard to the seriousness of the circumstances of the offending, and

2 *Boulton*, 311 [2].
3 Ibid, 338 [131].

I consider it is in the public interest to make such an order. Such an order is not opposed.

66 Finally, in respect to s.6AAA, but for your plea of guilty, I would have imposed a term of imprisonment of three years to serve 18 months.

67 I will now provide to Mr Stoicos the Community Correction Order that is to commence from today's date and end on 21 January 2022. He is to attend the Dandenong Community Correctional Services. Is that the one most appropriate?

68 MS SEOUD: Yes, Your Honour.

69 HER HONOUR: Yes. Which is at 46-50 Walker Street, Dandenong, within two clear days of today's date. And that sets out the terms, including the mandatory core conditions and the conditions I have announced.

70 MS SEOUD: As Your Honour pleases.

71 HER HONOUR: If you could assist your client in completing that document, that would be appreciated.

72 MS SEOUD: Yes, Your Honour.

73 HER HONOUR: All right. When I leave the Bench, I will ask that my associate provide copies to the parties, of the Community Correction Order.

74 MS SEOUD: Thank you, Your Honour.

75 HER HONOUR: Have you got the forensic sample order there?

76 MS GURRY: I do, Your Honour. I just wanted to make sure that you had what you needed. I did notice in the compensation order that there was a date that was incorrect in the one - so I have redrafted that. If I could just hand - - -

77 HER HONOUR: All right. You can provide that.

78 MS GURRY: Thank you. It just had the date of the convicted part of it that was one of the offence dates, so I'm not sure how that happened. If that makes sense.

79 HER HONOUR: All right. I will sign that order.

80 MS GURRY: Thank you, Your Honour. This is the forensic sample.

81 HER HONOUR: The non-custodial one?

82 MS GURRY: Yes. There's notice of the application and the order.

83 HER HONOUR: It is the 22nd today, is it not?

84 MS GURRY: Yes, it is.

85 HER HONOUR: Have you got that?

86 MS GURRY: I do, Your Honour. I have a feeling, however, that it's printed out double-sided with the custody version on one side and the non-custody version on the order.

87 HER HONOUR: I have got one that is non-custodial.

88 MS GURRY: If you're able to do that one, that would be most appreciated.

89 HER HONOUR: All right. Mr Stoicos, the only thing I need to tell you further in relation to the orders that I have made today is that the taking of a forensic sample involves you attending a police station and providing them with a sample which is a scraping from the mouth. You will be provided with a little cotton bud from the police, and you just rub it on the side of your mouth. And provided you do that, and give it back to them, that completes the taking of the sample. But in the event that you are not cooperative, police do have the power to do the sample by way of blood sample. But hopefully that will not be required.

90 All right. I have signed the order and that sets out the police stations where you can attend for you to comply with that last order.

91 So that completes everything. That is now completed, and we can adjourn the court.

92 MS GURRY: As Your Honour pleases.

93 HER HONOUR: Thank you.

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